

authorized. The application to modify a license to comply with the band plan shown in § 90.357(a) may also include a modification to specify an alternate site, so long as the alternate site is 2 kilometers or less from the site specified in the original license.

(b) When existing multilateration AVM licensees file applications to modify, as specified in paragraph (a) of this section, they *must* certify that either:

(1) The stations that compose their AVM system were constructed and placed in operation in accordance with § 90.155(e) on or before February 3, 1995; or

(2) The stations were not constructed and placed in operation in accordance with § 90.155(e) on or before February 3, 1995.

(c) Multilateration AVM systems that were constructed and placed in operation on or before February 3, 1995 will be given until April 1, 1998 to convert to the spectrum identified in their LMS system license. Such licensees may continue to operate their systems during this period. Licensees of multilateration AVM constructed and operational systems that do not file applications to modify on or before May 22, 1995, will be permitted to continue operations under the provisions of former § 90.239 until April 1, 1998 or the end of their original license term, whichever occurs first, at which time such licenses will cancel automatically and will not be renewed.

(d) Multilateration AVM licensees for stations that *were not* constructed and placed in operation on or before February 3, 1995 must construct their LMS systems and place them in operation on the spectrum identified in their LMS system license on or before September 1, 1996, or their licenses will cancel automatically (see Section 90.155 (e)). Also, these licenses will cancel automatically on July 1, 1996 unless timely modification applications are filed on or before this date (see paragraph (a) of this section).

(e) Non-multilateration systems licensed in spectrum other than the 902.00–904.00 and 909.75–921.75 MHz bands must modify their licenses by April 1, 1998 to specify operation solely in the bands provided in § 90.357(b) for non-

multilateration systems and to operate their systems consistently with the provisions of § 90.353.

[60 FR 15253, Mar. 23, 1995, as amended at 61 FR 18986, Apr. 30, 1996]

§ 90.365 Partitioned licenses and disaggregated spectrum.

(a) *Eligibility*—(1) Parties seeking approval for partitioning and disaggregation shall request an authorization for partial assignment of a license pursuant to § 90.153.

(2) Multilateration LMS licensees may apply to partition their licensed geographic service area or disaggregate their licensed spectrum at any time following the grant of their licenses. Multilateration LMS licensees may partition or disaggregate to any party that is also eligible to be a multilateration LMS licensee. Partitioning is permitted along any service area defined by the parties, and spectrum may be disaggregated in any amount. The Commission will also consider requests for partial assignment of licenses that propose combinations of partitioning and disaggregation.

(b) *Technical Requirements*—In the case of partitioning, requests for authorization for partial assignment of a license must include, as attachments, a description of the partitioned service area, and a calculation of the population of the partitioned service area and the licensed geographic service area. The partitioned service area shall be defined by coordinate points at every three degrees along the partitioned service area unless county lines are followed. The geographic coordinates must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude and must be based upon the 1927 North American Datum (NAD27). Applicants may supply geographical coordinates based on 1983 North American Datum (NAD83) in addition to those required based on NAD27. In the case where county lines are utilized, applicants need only list the specific area(s) (through use of county names) that constitute the partitioned area.

(c) *License term*. The license term for a partitioned license area, and for

disaggregated spectrum shall be the remainder of the original licensee's license term.

(d) *Construction requirements*—(1) *Requirements for partitioning.*

(i) Parties seeking authority to partition must meet one of the following construction requirements:

(A) The partitionee may certify that it will satisfy the applicable construction requirements for the partitioned license area; or

(B) The original licensee may certify that it has or will meet the construction requirement for the entire license area.

(ii) Applications requesting authority to partition must include a certification by each party as to which of the above construction options they select.

(iii) Failure by any partitionee to meet its respective construction requirements will result in the automatic cancellation of the partitioned or disaggregated license without further Commission action.

(2) *Requirements for disaggregation.* Parties seeking authority to disaggregate must submit with their partial assignment application a certification signed by both parties stating which of the parties will be responsible for meeting the construction requirement for the licensed market. Parties may agree to share responsibility for meeting the construction requirements. Parties that accept responsibility for meeting the construction requirements and later fail to do so will be subject to license forfeiture without further Commission action.

[63 FR 40663, July 30, 1998]

EFFECTIVE DATE NOTE: At 63 FR 40663, July 30, 1998, §90.365 was added, effective Sept. 28, 1998, except paragraph (d) which is effective Jan. 19, 1999.

Subpart N—Operating Requirements

§90.401 Scope.

The subpart prescribes general operating requirements for stations licensed under this part. This includes station operating procedures, points of communication, permissible communications, methods of station identi-

fication, control requirements, and station record keeping requirements.

§90.403 General operating requirements.

(a) Licensees of radio stations in the private land mobile radio services shall be directly responsible for the proper operation and use of each transmitter for which they are licensed. In this connection, licensees shall exercise such direction and control as is necessary to assure that all authorized facilities are employed:

(1) Only for permissible purposes;

(2) Only in a permissible manner; and

(3) Only by persons with authority to use and operate such equipment.

(b) In carrying out their responsibilities under §90.403(a), licensees shall be bound by the provisions of the Communications Act of 1934, as amended, and by the rules and regulations of the Commission governing the radio service in which their facilities are licensed; and licensees may not, through written or oral agreements or otherwise, relieve themselves of any duty or obligation imposed upon them, by law, as licensees.

(c) Except for stations that have been granted exclusive channels under this part and that are classified as commercial mobile radio service providers pursuant to part 20 of this chapter, each licensee must restrict all transmissions to the minimum practical transmission time and must employ an efficient operating procedure designed to maximize the utilization of the spectrum.

(d) Communications involving the imminent safety-of-life or property are to be afforded priority by all licensees.

(e) Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.

(f) Stations licensed in this part shall not continuously radiate an unmodulated carrier except where required for tests as permitted in §90.405, except where specifically permitted by this part, where specifically authorized in the station authorization, or on an